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Before the
FEDERAL COMMUNICATIONS COMMISSION RECEIVED
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In the Matter of

Amendment of Part 5 of the
Commission's Rules to Revise the
Experimental Radio Service
Regulations

ET Docket No. 96-256

**COMMENTS OF
MOTOROLA SATELLITE COMMUNICATIONS, INC.**

MOTOROLA SATELLITE
COMMUNICATIONS, INC.

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To: The Commission

COMMENTS OF MOTOROLA SATELLITE COMMUNICATIONS, INC.

Motorola Satellite Communications, Inc. ("Motorola") hereby submits its initial comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.¹² Motorola supports the Commission's preliminary determination to amend its experimental licensing rules to reflect changes in the communications industries.

Motorola generally agrees with the proposals made in the Commission's Experimental Notice. Motorola does, however, wish to renew its suggestion that applicants for experimental licenses be permitted to begin construction of the proposed facilities at their own risk before a license is issued. At a minimum, pre-authorization construction should be permitted for those radio services where the Commission has already determined by rule that the underlying radio licensee should have the flexibility

¹² Amendment of Part 5 of the Rules, Notice of Proposed Rulemaking, FCC 96-475, released December 20, 1996 ("Experimental Notice").

to construct prior to licensing. Consistent with the Commission's recently revised satellite rules, applicants should demonstrate that they clearly understand that such construction is at their own risk, and that they may not operate experimental facilities prior to receiving an experimental license.

Motorola also urges the Commission to clarify that its 1992 Experimental Satellite Policy Statement should not be read as limiting the scope and type of satellite station experimental licenses.* Greater flexibility is particularly important for the satellite industry where even the construction of facilities for an experimental earth station and/or space station can take a significant amount of time.

Motorola's interest in this proceeding is two-fold. First, Motorola received a license from the Commission's International Bureau in 1995 to construct, launch and operate the IRIDIUM® System in the 1.6 GHz MSS/RDSS band on a bi-directional basis.* As part of this program, Motorola sought and received several experimental licenses to construct earth station and space station facilities. Second, Motorola has pending before the Commission two applications for innovative, new satellite systems. Motorola, through its Comm, Inc. affiliate, submitted an application in 1995 to provide broadband GSO FSS in the 28/18 GHz bands.* Motorola also recently submitted, through its Motorola Satellite Systems, Inc. affiliate, an application to provide

* Policy Statement on Experimental Satellite Applications, 7 FCC Rcd 4586 (1992) ("Experimental Satellite Policy Statement").

* Motorola Satellite Communications, Order and Authorization, 10 FCC Rcd 2268 (1995).

* Comm, Inc.'s GSO FSS application was filed with the Commission on September 29, 1995. FCC File No. 163-166-SAT-P/LA-95.

broadband NGSO FSS services in the 40 GHz band.* These satellite system proposals, as well as the scores of pending satellite applications for new consumer services now pending before the Commission, could conceivably benefit from the added flexibility set out in the Commission's Notice to amend its experimental rules. Motorola's specific comments and suggestions are discussed below.

I. THE COMMISSION SHOULD WAIVE THE CONSTRUCTION PERMIT REQUIREMENT OF SECTION 319(d) OF THE COMMUNICATIONS ACT FOR ALL EXPERIMENTAL SATELLITE SYSTEMS AND EARTH STATIONS

As the Commission is well aware, the satellite industry is experiencing a renaissance of proposed innovative services that will bring satellite-delivered voice, data and video services directly to consumers. Just last December, the Commission recognized that satellite licensees and proponents require streamlined procedures to shorten the time necessary to bring these revolutionary services to the general public. As part of its streamlining of the satellite rules, the Commission eliminated the need to receive prior authority before initiating construction of satellite and earth station facilities.* The Commission should extend this flexibility to its experimental rules.

The Commission concluded in its Streamlining Order that applicants for all space station facilities need not have prior Commission authority, nor seek a waiver under Section 319(d) of the Communications Act of 1934, as amended, before

* Motorola Satellite Systems Inc.'s NGSO FSS application was filed with the Commission on September 4, 1996.

* Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures, Report and Order in IB Docket 95-117 (1996) ("Streamlining Order"). The change is reflected in revised Rule 25.113(f).

initiating construction of their satellites.⁷² The Commission also extended the right to begin construction of earth station facilities prior to authorization to all earth station facilities that will operate with U.S.-licensed space stations.⁷³ The Commission explicitly warned prospective licensees, however, that all construction would be "at the applicant's own risk, and [the Commission] will not in any way consider the status of construction or expenditures made when acting on the underlying application."⁷⁴

The Commission should adopt similar procedures in its experimental rules.⁷⁵ Applicants for experimental licenses should not be required to wait for the Office of Engineering and Technology to issue a license before beginning construction of requested communications facilities. As Motorola previously explained to the Commission, this construction permit requirement can be an impediment to long term planning of satellite systems. Allowing an applicant to begin construction of both space and earth stations, at its own risk, can shave years off of the time needed to bring new services to fruition. This is equally true of experimental licensing since operation of an experimental system could precede implementation of a full satellite system.

Experimental licenses are used to determine whether the real world application of a theoretical concept is possible and profitable, justifying the massive investment that today's satellite networks often require.

⁷² Streamlining Order at ¶ 6-9.

⁷³ Streamlining Order at ¶ 23. The change is reflected in revised Rule 25.113(d).

⁷⁴ Id. at ¶ 9.

⁷⁵ Motorola raised this proposal in the Satellite Streamlining Proceeding, but the Commission suggested that it would consider Motorola's proposal in the context of the instant rulemaking. Id. at ¶ 8.

In its 1992 Experimental Satellite Policy Statement, the Commission suggested that the grant of experimental satellite licenses might "create an expectation that sizable investments in an experiment necessitate or mandate any particular course of action by the Commission."¹² There, the Commission voiced its concern that satellite applicants would use the experimental process to avoid the delays encountered in seeking commercial satellite licenses. The Commission has addressed this concern head on through its recent Streamlining Order. Now, the Commission permits applicants to begin construction of their satellite systems prior to obtaining an FCC construction permit or license. There is no longer any reason for applicants to "game" the experimental rules as a means of circumventing the underlying satellite rules and procedures since an applicant may construct permanent space and earth station facilities for commercial use without first seeking authorization or a Section 319(d) waiver.

With these new satellite rules in place, there is no longer any rationale for maintaining a pre-authorization construction prohibition for any satellite experiment. Nor is such a prohibition necessary or justifiable in any instance where the Commission has already waived the construction authorization requirement for the underlying class of radio service. The Commission could readily extend its liberalization of the statutory construction requirements for satellite experimental licenses based upon the very same rationale used in its Streamlining Order.

¹² Experimental Satellite Policy Statement at 4586.

While Motorola strongly supports the Commission's proposal to amend its rules to combine experimental construction permits and licenses into one authorization,¹² Motorola does not read this proposal as permitting experimental applicants to begin construction prior to receiving a "combined" license grant. Therefore, it urges the Commission to further amend this rule to allow construction to begin prior to receiving an experimental license.

II. MOTOROLA SUPPORTS SEVERAL OF THE COMMISSION'S PROPOSALS, SINCE THEY WILL IMPROVE THE EXPERIMENTAL RADIO PROCEDURES

Motorola believes that many of the Commission's other proposals will improve its experimental rules, making them more valuable as tools for the development of telecommunications operations or untested technologies. Motorola briefly comments on those proposals that will have the most impact on its satellite business and offers the Commission some suggestions for further improving these proposed rules.

A. The Commission Should Extend Experimental License Terms Beyond The Current Maximum Of Two Years

Motorola enthusiastically supports the Commission's proposal to grant experimental licenses for more than a maximum of two years.¹³ As the Commission is well aware, the development of experimental satellite programs can extend well beyond two years, resulting in repeated pro forma requests for extensions of licenses. The creation of a five year term should alleviate this problem. Motorola suggests, however,

¹² Experimental Notice at ¶ 20.

¹³ Experimental Notice at ¶ 7.

that the Commission consider granting licenses for durations between two and five years based upon the requested time frame in the applicant's experimental proposal. Motorola recognizes that this might add slightly to the administrative burden of tracking varying license terms, but respectfully suggests that this additional effort may be worthwhile as a means of tailoring licenses to the specific requirements of the licensee. Any additional administrative burden may be offset by a decreased number of requests for extension of license terms, since the initial term will be shaped to the needs of the applicant.

B. The Commission Should Permit The Filing Of Both Fixed And Mobile Facilities Under A Single Experimental Application

Motorola fully supports the Commission's proposal to permit an applicant to combine several related fixed and/or mobile radio facilities under one license request. Motorola also supports the Commission's proposal to allow multiple phases of an experimental process to be authorized under one license. In its IRIDIUM® System filings, Motorola has experienced the needless paperwork now required for space stations and associated earth stations that are part and parcel of the same experimental effort. The Commission can readily grant a blanket experimental license for all related facilities without undermining its processes in any way. Such blanket licenses would significantly reduce the amount of paperwork both for the Commission and the public. Motorola suggests, however, that the Commission clarify the extent of a licensee's authority to make changes under the auspices of a blanket experimental license without additional Commission action. For example, may the licensee add

technically identical fixed and/or mobile facilities to the experimental plan? Upon initial review of the Commission's experimental rule on changes to equipment requiring prior Commission authorization,¹² Motorola does not believe this eventuality is addressed.

Motorola also notes that the Commission has indicated that it will amend existing Rule 5.62 to permit the filing of a single application for multiple experiments. This proposed change, however, is not contained in Appendix A to the Notice.

C. The Grant Of Stand-Alone STAs Will Promote The Use Of Experimental Projects

Motorola fully supports the Commission's proposal to grant a six-month Experimental Special Temporary Authority ("STA") even if the requester does not already hold an underlying experimental license. Motorola also applauds the Commission's tentative decision to give these STA requests preferential treatment.¹³ There are many instances where the need for an STA, experimental or otherwise, may expire before the Commission can act on the underlying application. Particularly in the experimental radio service where initiative and creativity should be promoted, the requirement that a requester first have a license, even if the minimum two-year experimental license is not necessary to effectuate the effort, acts to deter exploration of a radio service's potential and the positive results this exploration often creates.

¹² See current Commission Rule 5.64 and proposed Rule 5.77.

¹³ Experimental Notice at ¶ 15-16. Because by their very nature experimental STAs require expeditious processing, Motorola suggests that the Commission grant all such requests without the need for 30-day Public Notice. Motorola believes that Section 309(b)(2)(G) may provide the Commission with sufficient authority to designate all experimental STA authorizations as routinely exempt from the Public Notice requirement.

Motorola also suggests that the Commission carefully consider its suggested limit on the extension of six-month STAs.^{**} Since the Commission's proposed STA procedure is meant to accommodate entities that do not require an experimental license of two or more years, the Commission should not require "extenuating circumstances" for extensions that total two years or less from the original date of the first STA grant. This policy would be in keeping with the Commission's goal of providing an alternative to licensing for the public to carry on radio spectrum experimentation.

^{**} Experimental Notice at ¶18.

III. CONCLUSION

Motorola generally supports the Commission's proposed revisions to its experimental rules. Motorola urges the Commission to consider carefully the impact that these rules will have on the burgeoning satellite industries. Motorola's suggested changes may further assist the satellite and other communications industries in taking better advantage of the Commission's experimental procedures.

Respectfully submitted,

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